

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAOUL LAFOND,

No. 2:22-cv-1093 AC P

Petitioner,

v.

RAPHAEL ZUNIGA, WARDEN,

ORDER and

Respondent.

FINDINGS and RECOMMENDATIONS

Petitioner, a federal prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On October 13, 2022, respondent filed a motion to dismiss this action on various subject matter and jurisdictional grounds. ECF No. 10. Pursuant to Local Rule 230(l), petitioner had twenty-one days to file an opposition or a statement of non-opposition to respondent's motion. Petitioner, however, failed to file a response within the time allotted. As a result, on January 18, 2023, the court ordered petitioner to respond within thirty days. ECF No. 15.

More than thirty days have passed, and petitioner has neither filed a response to respondent's motion to dismiss nor responded to the court's order in any way. For this reason, the undersigned will recommend that this matter be dismissed for failure to prosecute and for failure to obey a court order. See Fed. R. Civ. P. 41(b); Local Rule 110.

1           Accordingly, IT IS HEREBY ORDERED that the Clerk of Court shall randomly assign a  
2 District Judge to this action.

3           IT IS FURTHER RECOMMENDED that:

- 4           1. This matter be DISMISSED for failure to prosecute and for failure to obey a court  
5 order;
- 6           2. Respondent's motion to dismiss (ECF No. 10) be DENIED as moot; and
- 7           3. The court DECLINE to issue the certificate of appealability referenced in 28 U.S.C. §  
8 2253.

9           These findings and recommendations are submitted to the United States District Judge  
10 assigned to the case, pursuant to the provisions of 28 U.S.C. §636(b)(1). Within fourteen days  
11 after being served with these findings and recommendations, any party may file written  
12 objections with the court and serve a copy on all parties. Such a document should be captioned  
13 "Objections to Magistrate Judge's Findings and Recommendations." If petitioner files objections,  
14 he shall also address whether a certificate of appealability should issue and, if so, why and as to  
15 which issues. See 28 U.S.C. § 2253(c)(2). Any reply to the objections shall be served and filed  
16 within seven days after service of the objections. The parties are advised that failure to file  
17 objections within the specified time may waive the right to appeal the District Court's order.

18 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

19 DATED: March 8, 2023

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21 ALLISON CLAIRE  
22 UNITED STATES MAGISTRATE JUDGE  
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